

# Atlantic States Marine Fisheries Commission

## Atlantic Herring Section

*October 27, 2016  
10:45 a.m. – 12:15 p.m.  
Bar Harbor, Maine*

### Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

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| 1. Welcome/Call to Order ( <i>R. White</i> )   | 10:45 a.m. |
| 2. Board Consent   | 10:45 a.m. |
| • Approval of Agenda   |            |
| • Approval of Proceedings from February 2016   |            |
| 3. Public Comment  | 10:50 a.m. |
| 4. Elect Vice-Chair <b>Action</b>  | 10:55 a.m. |
| 5. Review and Discuss White Paper on Fishery Performance and Alternative Management Tools ( <i>A. Harp &amp; R. White</i> ) <b>Possible Action</b> | 11:00 a.m. |
| 6. Set the 2017 Atlantic Herring Specifications for Area 1A <b>Final Action</b>  | 12:05 p.m. |
| 7. Other Business/Adjourn  | 12:15 p.m. |

The meeting will be held at the Harborside Hotel; 55 West Street; Bar Harbor, ME; 207.288.5033

*Vision: Sustainably Managing Atlantic Coastal Fisheries*

# MEETING OVERVIEW

**Atlantic Herring Section Meeting**  
**October 27, 2016**  
**10:45 a.m. – 12:15 p.m.**  
**Bar Harbor, Maine**

Chair: Ritchie White (NH) <i>Assumed Chairmanship 2/16</i>	Technical Committee Chair: Renee Zobel	Law Enforcement Committee Michael Eastman
Vice Chair: VACANT	Advisory Panel Chair: Jeff Kaelin	Previous Section Meeting: February 2, 2016
Voting Members: ME, NH, MA, RI, CT, NY, NJ (7 votes)		

## 2. Section Consent

- Approval of Agenda
- Approval of Proceedings from February 2016

**3. Public Comment** – At the beginning of the meeting public comment will be taken on items not on the Agenda. Individuals that wish to speak at this time must sign in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Section Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Section Chair may allow limited opportunity for comment. The Section Chair has the discretion to limit the number of speakers and/or the length of each comment.

## 4. Elect Vice-chair (10:55 – 11:00 a.m.)

<b>5. Review and Discuss White Paper on Fishery Performance and Alternative Management Tools (11:00 a.m. – 12:05 p.m.)</b>
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<b>Background</b>
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| <ul style="list-style-type: none"> <li>• This white paper provides an overview of Area 1A Atlantic herring management, landings and alternative management tools for consideration. It is being brought forward by a subset of the Section (member states of Maine, New Hampshire and Massachusetts) to elevate to the full Section issues that were identified during recent days out discussions. In particular, the accelerated pace of Area 1A Trimester 2 landings and the increasingly dynamic nature of days out measures to control Trimester 2 effort that have varied across states. The list of identified alternative management tools to address these issues is not a comprehensive list and should be</li> </ul> |
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viewed as topics to discuss, not pre-determined pathways.

- 2015 fishing season concern: In Area 1A the rate of landings accelerated in August such that the seasonal quota was exceeded on August 28; triggering a zero landing day scenario for all of September.
- 2016 fishing season concern: Above-average landings at the start of the season, and thereafter, led to emergency restrictions for vessels landing in Maine (on behalf of Maine DMR), which were more restrictive than those of the Commission.
- **White Paper in Briefing Materials**

#### **Presentation**

- Summary of the white paper by A. Harp

#### **6. Set 2017 Area 1A Sub-ACL Specifications (12:05 – 12:15 p.m.)**

##### **Background**

- At the 2015 Annual Meeting, the Section approved the Area 1A sub-ACL as part of the 2016-2018 Atlantic herring specifications. The Area 1A sub-ACL of 30,300 metric tons (mt) represents 28.9% of the stockwide ACL (104,800 mt).
- Since 2009, the Section has split the Area 1A sub-ACL into trimesters, where 0% is allocated from January 1-May 31, 72.8% is allocated from June 1 – September 30 and 27.2% is allocated from October 1- December 31.

##### **Board Actions for Consideration at this Meeting**

- Set the seasonal splitting of the Area 1A sub-ACL, quota rollovers and sub-ACL trigger.

#### **7. Other Business/Adjourn**

**DRAFT PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC HERRING SECTION**

**The Westin Alexandria  
Alexandria, Virginia  
February 2, 2016**

**These minutes are draft and subject to approval by the Atlantic Herring Section  
The Section will review the minutes during its next meeting**

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**Consider Final Approval of Amendment 3 ..... 10**

**Adjournment ..... 19**

## INDEX OF MOTIONS

1. **Motion to approve agenda** by Consent (Page 1).
2. **Motion to approve proceedings of November, 2015** by Consent (Page 1).
3. **Move to adopt *Option C. GSI-based forecast system for Section 4.2.6.1 - Spawning Area Closure Monitoring System.*** (Page 11). Motion by Terry Stockwell; second by Dennis Abbott. Motion carried (Page 13).
4. **Move to select under Section 4.2.6.1 the trigger value of the 80th Percentile (GSI30 Trigger = 25), and default date of sub-option C2** (Page 13). Motion by Doug Grout; second by Bill Adler. Motion carried (Page 14).
5. **Move to select under 4.1.3 Option A; status quo: Maintain the current spawning areas** (Page 14). Motion by Pat Augustine; second by Ritchie White. Motion carried (Page 14).
6. **Motion to select under Section 4.2.6.4 spawning closure period, Option A status quo, four weeks** (Page 14). Motion by Doug Grout; second by Terry Stockwell. Motion passes unanimously (Page 15).
7. **Motion to select under Section 4.2.6.4 spawning closure period reclosures protocol Option B, define protocol** (Page 15). Motion by Doug Grout; second by Terry Stockwell. Motion carried (Page 16).
8. **Motion to select under Section 4.2.7.2 fixed gear set-aside provision adjustment, Option A status quo** (Page 16). Motion by Doug Grout; second by Bill Adler. Motion failed (Page 17).
9. **Motion to select under Section 4.2.7.2 fixed gear set-aside provision, Option B** (Page 17). Motion by Terry Stockwell; second by Mark Gibson. Motion carried (Page 18).
10. **Motion to select under Section 4.2.8, empty fish hold provision Option C1; federal/state empty fish hold provision for select vessels** (Page 18). Motion by Doug Grout; second by David Pierce. Motion carried (Page 18).
11. **Motion to have an implementation date of June 1, 2016** (Page 18). Motion made by Doug Grout; second by Bill Adler. Motion passes (Page 19).
12. **Motion to recommend to the Full Commission to approve Amendment 3 as modified** (Page 19). Motion by Bill Adler; second by Steve Train. Motion carried (Page 19).
13. **Motion to adjourn** by Consent (Page 19).

## ATTENDANCE

### Section Members

Terry Stockwell, ME, proxy for P. Keliher (AA)	Mark Gibson, RI, proxy for J. Coit (AA)
Sen. Brian Langley, ME (LA)	Dave Simpson, CT (AA)
Steve Train, ME (GA)	Dr. Lance Stewart, CT (GA)
Doug Grout, NH (AA)	Pat Augustine, NY, proxy for Sen. Boyle (LA)
G. Ritchie White, NH (GA)	Emerson Hasbrouck, NY (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Steve Heins, NY, proxy for J. Gilmore (AA)
Rep. Sarah Peake, MA (LA)	Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)
David Pierce, MA (AA)	Russ Allen, NJ, proxy for D. Chanda (AA)
Bill Adler, MA (GA)	Tom Fote, NJ (GA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	John Bullard, NMFS
David Borden, RI (GA)	Wilson Laney, USFWS

**(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)**

### Ex-Officio Members

Jeff Kaelin, Advisory Panel Chair

Renee Zobel, Technical Committee Chair

### Staff

Robert Beal  
Toni Kerns

Ashton Harp  
Mike Waive

### Guests

Kelly Denit, NMFS  
Michael Pentony, NMFS  
Peter Burns, NMFS  
Mike Ruccio, NMFS  
Allison Murphy, NMFS  
Jason McNamee, RI DEM

Patrick Paquette, MSBA  
Joseph Gordon, PEW  
Shaun Gehan, Ad-hoc Pelagics, DC  
Michael Hall, Narragansett, RI  
Raymond Kane, CHOIR

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, February 2, 2016, and was called to order at 1:42 o'clock p.m. by Chairman Ritchie White.

**CALL TO ORDER**

**APPROVAL OF AGENDA**

CHAIRMAN G. RITCHIE WHITE: *(Introduction and Approval of Agenda not recorded.)*

**APPROVAL OF PROCEEDINGS**

CHAIRMAN WHITE: Secondly, approval of the proceedings from November, 2015, is there any changes or additions to the minutes of November, 2015? Seeing none; approved by consent.

**PUBLIC COMMENT**

CHAIRMAN WHITE: Is there any public comment on items not on the agenda? Ray.

MR. RAYMOND KANE: Thank you, Mr. Chairman, Raymond Kane; commercial fisherman, Chatham Massachusetts. I would like to commend the commission on the hard work they put in for this amendment. I guess we'll see the outcome by the end of the day. But there is still an elephant in the room, and that elephant is we have no spawning protections still to this day on Georges Bank and Nantucket Shoals.

I've been here for years, I saw the white paper and I've also heard the lack of funding. But this will be directed towards the New England directors, they are each sitting at this table, and this will eventually affect New Jersey and New York with landings. As God as my judge, I don't know how they can come out with these assessments.

We're supposed to believe in the science and yet we don't know what is going on with the

spawning biomass on Georges Bank and Nantucket Shoals. I know I'll probably hear back from this commission that we don't have a place in that. You're talking federal waters. But we have all directors here from the New England Council and I wish they would make a concerted effort in the future in addressing this issue. Thank you.

CHAIRMAN WHITE: Thank you, Ray. Any other public comment on items not on the agenda?

**DRAFT AMENDMENT 3 TO THE ATLANTIC HERRING FMP**

**REVIEW OPTIONS AND PUBLIC HEARING SUMMARY**

CHAIRMAN WHITE: Seeing none; we'll move on to Draft Amendment 3, the Atlantic Herring Fishery Management Plan, Final Action, Review of the Options; Ashton.

MS. ASHTON HARP: Okay so I'm going to go through the public comment summary for Draft Amendment 3 for the Atlantic Herring Fishery Management Plan. Before I begin I want us to just go over our brief timeline of the recent actions that were taken for this document this past year.

In August, 2015 the board tasked the TC with revising a spawning area efficacy options with the goal to protect spawning fish by prohibiting the landing of Atlantic herring caught within a specific spawning area. The PDT took this information and revised the spawning area efficacy options. We were going to produce a whole entire draft amendment at the November meeting. However, upon further review of the document we noticed that there were some other changes. Therefore, we brought forward a public hearing document at the annual meeting. The Section subsequently approved the public hearing document, which was a segment of the larger document; so basically just had the management area options in there and description of the resource.



This public hearing document was taken to public comment in December of 2015 through January of 2016. As you can see we had four public hearings in Maine, New Hampshire, Massachusetts and Rhode Island; and we received nine written comments from organizations. During this time while we were going out to public hearing the PDT was also pulling together the complete Draft Amendment 3, which you saw was released first via the briefing materials.

Then it was subsequently revised and it was released again in the supplemental materials. As you can see in the supplemental materials there are a couple of changes that were highlighted in yellow. I'll just note them now. The stock assessment section was revised and more figures were added.

A paragraph was added in 2.7, Resource Community Aspects, simply to note that the fishery is restricted to purse seine and fixed gear during the summer months, and there are no gear restrictions after October 1st. Lastly the fixed gear section was changed to specifically note that the fixed gear set aside is up to 500 metric tons. However, the current specifications set it at 295 metric tons.

Here in front of you today is the full document. Note that all sections were reviewed and/or edited by the PDT. I also submitted in briefing materials the decision document, which is basically a summary of this presentation that I am going to give today. The management options that we are considering are Issue 1, Spawning Area Efficacy, underneath that it encompasses spawning area monitoring system, default closures dates and trigger values, spawning area boundaries, spawning closure period and then a reclosure period.

A second issue is Fixed Gear Set Aside. The third issue is Empty Fish Hold Provision. I will note that the empty fish hold provision was brought about in conjunction with New England Fisheries

Management Council's Framework 4. However, they are still preparing the final rule, so we do not know if NMFS will approve or not approve the empty fish hold provision.

Now I am going to just jump right into the public comment period. At first just the structure, I am going to go through each management option and just kind of give a brief explanation of it. Then I will go through the public comments that you can see are in red. For the spawning area closure monitoring system, this is a technical aspect of when to issue a spawning area closure.

It is based on the female gonadosomatic index, commonly known as GSI. For Option A, status quo, as we all know two commercial catch samples that were taken within seven days of each other, a sample size is defined as 100 adult fish within two separate size class triggers will initiate a spawning area closure.

Option B is essentially the same thing as status quo, except there are two main differences. Samples can come from fisheries independent or dependent sources. Right now it is only commercial catch samples. Also there was a sentence that was added that says, the fishery will remain open if sufficient samples are available, but they do not contain ripe female herring. The PDT did want to draw caution to this one specific sentence, because not all states have independent sampling programs for Atlantic herring. Therefore, if sufficient samples were collected but didn't show spawning herring, maybe because of gear biases, then that area would not close.

Option C is the GSI30 based forecast system. A little bit of background on this one. This is the new one. The PDT, really the Technical Committee developed this option based on review of 8,000 GSI observations over a 12 year period of time. They determined that this forecasting system would be better, because it would more accurately predict when spawning

fish were in the area and therefore when to close spawning areas.

There is a common concern that spawning areas were being closed too early, and therefore they weren't encompassing the full time period of when herring were spawning. For this example you would have three samples comprised of at least 25 female herring in gonadal stages 3 through 5 will comprise a sample, and from there a date would be forecasted within five days.

This would give more time for the industry to know when a spawning area would close. Now for the public comment, so for Option A, status quo, there were two written comments. One person felt that a pilot program should parallel the existing system for at least a year before we were locked into a new system via this amendment.

Another comment said they wanted it to be ground truthed before it becomes the standard method. Another person said that they liked the status quo and they thought it worked reasonably well. They just noted that there were some issues with the default dates. There was a discussion about that and for GSI Option C, it was said that we would hopefully be relying less on default dates.

For Option D there was one person in favor of this. It wasn't so much that they were in favor of the entire Option D, it is just that they felt that samples should come from fisheries independent or dependent sources; we shouldn't be limited to one. For Option C, you can see that we have the majority of those are in favor of Option C during the public hearing process, and people just felt that if science shows that it will more accurately close the spawning area closures then that is the one that we should use.

People also liked it because it relied on a forecasting method, and they would have more advanced warning of when areas will close.

There was one concern that says they were concerned about the sample size. Right now it is three samples of 25 female herring in gonadal stages 3 through 5.

People thought maybe that was low considering the current sample size is 100. However, there is a difference because right now it is 100 adult sized fish, whereas in the revised method it would be 25 female herring in gonadal stages 3 through 5. It is a little bit more specific. There is also no upper bound on how many in a sample we would have to have; it just says a minimum of 25. There is no maximum.

Now moving into the default closure dates, so these are directly linked to the spawning area closure monitoring system, these are the only spawning area options that are linked together. For Option A, status quo, this is the same default dates that we've always had; the same for Option B as well. Option C is where there are different trigger values as you can see, based on if you want the forecasting method. There is Sub-Option C1, which is a 70th percentile. It closes the fishery earlier to protect maturing fish.

There is Sub-Option C2, this is a later closing. It would protect fish at the later stages of maturity. There is Sub-Option C3, the 90th percentile which would close the fishery just prior to spawning. We have one in favor of status quo. For Option C1 there were two people in favor of this one. They viewed it as the most conservative and therefore most likely to protect pre-spawning of mature fish.

Two were in favor of C2, because it was determined to be in the middle. Also people felt that default dates that are shown here more closely aligned to the actual spawning times. They felt that it would protect the majority of spawning fish. They also specifically noted that they felt that C3 was far too late for our default date.

Those in favor of Sub-Option C3 you can see there are 17. The majority of the Maine public hearing is what kind of bumped up those numbers. They felt that it would minimize the ongoing concerns of the spawning area closing prematurely. They also felt that this would kind of allow a little bit of a spawning tolerance as well.

For the spawning area boundaries we have Option A; status quo. Maintain the current spawning area boundaries. There are three spawning area boundaries. There is also Option B, combine the western Maine and Mass/New Hampshire spawning areas. GSI analysis suggests that western Maine and Mass/New Hampshire do not have significantly different spawning times. Therefore, it was suggested that they should be combined.

The majority of the public comments were in favor of status quo Option A, so just remaining the three areas that we have now, people felt comfortable with them. People also didn't want to run the risk of merging two areas together and then having a large section of the coast being closed at one time.

Two people were in favor of Option B, because they felt it had the potential to increase sample sizes, and therefore we could more accurately close a spawning area if we have more sample sizes for one area. For the spawning closure period there is Option A; four weeks, status quo. There is Option B, six weeks, and this was suggested based on the literature review that herring typically spawn for approximately 40 days.

The public comments stated that the majority felt comfortable with the four week time period that is currently proposed. It was seen as protecting the majority of spawning fish. Option B had support from three written comments. They just felt that it was based on the literature review that was provided in the Technical Committee report and that if it is a spawning

area closure and that is how long they spawn for, then that is how long the area should be closed for.

The spawning reclosure period, we have Option A; status quo. Sampling happens for two weeks after an area is reopened. If a sample contains 25 percent or more mature herring then it would initiate a reclosure. Then there is Option B, which is a more defined protocol. This one says in addition to other language, one sample can be taken in the last week of the initial closure or in the first week after the area is reopened. It defines the sample as 100 adult sized fish, and then goes on to say that if 25 percent or more in a sample would initiate a reclosure. It just kind of gives a little bit of more specifics around the status quo that we already have, defining what the sample is and also allowing samples to be taken in the last week of the initial closure.

There is also Option C, no reclosure protocol. This one was developed only to be linked with the six week initial closure period. It was felt that six weeks encompasses the entire spawning period of herring, therefore there would need to be no reclosure protocol. For the public comment two were in favor of status quo.

As you can see, Option B defined protocol. The majority, which is mostly made up of Maine are for the defined protocol. People are interested in sampling in the last week of the initial closure. One comment wanted the text to actually be reworded so that sampling has to occur in the last week of the initial closure.

However, I just wanted to note that like I said before, no state has an independent sampling program. We do rely a lot on commercial catch samples. Therefore, it might be a little tricky to have the wording so narrowly defined as only in the last week. One was in favor of no reclosure. This person felt that a four week period was viewed as enough time. That concludes the spawning area efficacy options and the public comment that we received on those options.

For Issue 2, the fixed gear set-aside rollover, we have Option A; status quo. Right now the Area 1 Sub-ACL 295 metric ton is set aside for the fixed gear fishery. They have that to use until November. If they have not used it then it is rolled over into the rest of the fishery, so mobile gear can then use the 295 metric tons; any part of it that has not been previously used.

There is also Option B, which is to remove the rollover provision. The 295 metric tons will never roll over into Area 1A mobile gear fishery; it will always be allotted to the fixed gear fishery for the entire year. We had one that was in favor of Option A; status quo. They said that any changes will make the state and federal FMPs inconsistent.

We also had one person say that they wanted the fixed gear set aside removed entirely. Then we also had four people that were in favor of Option B. They felt that the fixed gear fishery has had limited access to the resource, and therefore they felt that they were entitled to any amount of set aside that they could have.

This is Issue 3, the Empty Fish Hold Provision, and like I said before this was originally brought about because it is also in the council's Framework 4. I am going to walk through this one through a couple of slides, because there are five different options and they can be quite confusing if shown all at once.

For the Empty Fish Hold Provision, Option A, status quo, no empty fish hold provision; the vessels can leave the dock without anyone inspecting the vessel. Then we have two different wordings that we took to public comment. The Empty Fish Hold Provision the first one on the top mirrors what is in Framework 4.

It simply says that this option would require the fish holds on Category A and B vessels to be empty of fish before leaving the dock on any trip when declared into the Atlantic herring fishery.

The commission had subsequent meetings with the Advisory Panel last year and they made a little bit of a different wording to what is in Framework 4. The other language says this language would only apply to vessels with the ability to pump fish. Specifically it says; this option will require the fish holds on Category A and B vessels with the ability to pump fish are empty of fish before leaving the dock on any trip when declared into the Atlantic herring fishery.

This was a little bit of background. This was brought about because there were some fishermen in Rhode Island who have freezer vessels, so when they come into the dock, so basically they process at sea. If there is any reason for them to come into the dock, be it mechanical failure, some kind of whether circumstance.

They don't want to empty their fish hold unless it's full, because it is a fee they have to pay in order to empty. They would rather just take care of the problem at the dock and then go right back out and continue to fish and process fish until the fish hold is completely full. That is how it originally came to have the second option and wording.

Next we have contingent on federal adoption, just meaning if NMFS approves this then we would move forward with it. We also have language that says, regardless of what happens in Framework 4, Final Rule, the states would move forward with this option regardless; meaning that states would have to supply the resources to check Category A and B vessels each time they go into the fishery.

Now we're ready to show all five of the options all at once. Okay so now you can see Option A; status quo, an empty fish hold provision. Option B1 is basically what is in Framework 4 and it just says that if Framework 4 passes then we'll move forward with Option B1. B2 is the state empty fish hold provision so it is not contingent on federal adoption.

We would move forward with this using the language that is in Framework 4, regardless. C1 is the federal/state empty fish hold provision for select vessels. The C options are the wording that was changed by the commission to only apply to vessels that pump. C1 is contingent on federal adoption, but it would only apply to vessels that pump.

C2 is not contingent on federal adoption. The states would move forward with this regardless, but it is only applied to vessels that pump. Now I'll go through the public comment for this one. There were two in favor of status quo. They felt the act of checking vessels prior to departure was seen as too restrictive, because it affects how and when fishermen sell their fish.

There was also concern that inspection of each vessel prior to departure might delay trips. There was one in favor of Option B1. They were in favor of the empty fish hold provision as written in Framework 4, and only if Framework 4 was adopted. There were multiple people from Maine, which are about eight people in addition to two written comments that are in favor of B2.

This would use the same language that is in Framework 4, but we would move forward with it regardless of what NMFS did. The states would move forward with this. There were three people in favor of C1, so this is the language that says that it is only for select vessels that can pump, but it is contingent on federal adoption. There were also three people in favor of the state empty fish hold provision for select vessels not contingent on federal adoption, so the states would move forward with it regardless. I just want to mention for the language that says it would only apply to vessels that pump. It was originally brought about because of the freezer vessels that process at sea. However, during the public comment period we also heard that there are some vessels that do not have pumps and when they come in from sea they have maybe 10,000 ton, and a truckload is 40,000. They felt that they would lose out on business

opportunities if they only had 10,000 yet they couldn't go out to sea, but they couldn't put their fish into a truck because a truck is not going to come down just for 10,000 tons.

They felt that this measure would be really restrictive for them; therefore they specifically felt that having the language that says only vessels that pump would comply would work for them, because they don't pump fish. I know that might be a little confusing, so any questions on that feel free to ask. There were also other comments. For the fixed gear fishery they just said that the fixed gear fishery should be open in April or May time period, basically they wanted to be opened earlier than June.

They felt that June was far too late, they didn't see any fish in the fixed gear fishery and they felt it was unequal. There is also a comment that the 20 percent spawning tolerance should be reinstated, if not for the entire fishing year then at least until October 1st. I will take questions now on the public comment.

CHAIRMAN WHITE: Thank you, Ashton, thorough and well presented; any questions?

MR. DAVID PIERCE: That was a good summary. I might have missed it, were there any comments during the public hearings relative to the nature of fishery independent samples that would be used to judge whether the fisher were still spawning? I don't think we have in the document anything that describes what that means. Were there any comments to that affect?

MS. HARP: You are asking about fishery independent samples, and I trailed off right there.

MR. PIERCE: We say that the fisheries dependent or fisheries independent samples could be taken to judge where the spawning was still continuing. Fisheries dependent is kind of obvious, but fisheries independent, were there

any questions asked by those at the hearings regarding what that would entail, what that would mean? What actually would be looked at?

MS. HARP: No there was not. More people felt that if any samples can be available then they should be used. They just felt that we shouldn't discriminate and only use commercial catch samples. There were never any questions as to where the fishery independent samples would come from or what they would be used for.

MR. PIERCE: Okay thank you and just one other thing. Regarding the public hearings, I chaired the one in Gloucester to give those present an indication of the nature of the comments that occurred in Gloucester and it is an important location of course; because of one of the major processors present in Gloucester.

I would just refer the section to a couple of comment letters that do a real good job describing what was said in favor of different options and opposed to different options. That would be one letter being the one from Pew, Pew Charitable Trusts, where they describe their different positions on all of the elements such as spawning area efficacy and then the other one would be from Shaun Gehan, representing Cape Seafoods and others in Gloucester. He on behalf of those groups provided the perspective that was highlighted frequently by Jerry O'Neil, who was the manager of Cape Seafood. Again, for those wanting to know what happened in Gloucester, those two letters characterized the nature of the discussion very well.

MR. DOUGLAS E. GROUT: I wanted to ask a question about some of the revisions that were made to Amendment 3 that is outlined in our supplemental materials, and specifically the revision that was made in Section 2.7; Resource Community Aspects.

There is a statement here that says the summer restrictions on Area 1A to fix gear and purse seines is said to have led to a significant increase

in price of herring for bait, which has a potentially major impact on the lobster fishery. Notably mid-water pair trawlers are not allowed in Area 1A until October 1. Where did this addition come from and what was the reason for it? I have a couple concerns about it, so I would like to hear why it was put in and where this wording came from.

MS. HARP: The intent of that section was simply to note that the summer fishery is restricted to fixed gear and purse seine gear types, and then after October 1st it is open to all gear types. The first sentence that says, is said to have, that came from a council document.

MR. GROUT: Well, my concern here, one is our document saying something like, is said to have led to, but more importantly there are other things that have occurred during that same period that could have also impacted the increase in prices of herring. Most specifically we've had some substantial quota reductions.

If you all remember back prior to 2006, the quota for the herring fishery was around 150,000 metric tons. Then around the time of the implementation of Amendment 1, we went down to about 140 to 143,000 metric tons. Then in 2010 when we had to implement our specifications based on the revised Magnuson Act, we had a further substantial reduction in quota for herring to around 90 to 93,000 metric tons.

My economics class on supply and demand is, if you're reducing the supply that can also drive up your pricing. On top of that my other concern with that statement is the fact that throughout that period with the exception of one year that Area 1A quota has been fully utilized, and the only year it wasn't fully utilized was a year in which the other three areas went over their quota. The fishery as a whole had to shut down before the fishery in 1A had taken its harvest.

I have a concern about this having a suggestion of a cause and effect here of the fixed gear, purse seine or only seasonal restriction having an impact on the seasonal prices. My suggestion to the board is, I think we need to remove this particular statement from here, because I don't think it has a good solid basis of fact. If we need a motion to remove it, I was looking at this as you've added something to it and you were looking for concurrence with the board to add these sections to it. Is that the case or not?

MS. HARP: Feel free to revise any part of the document. If you would like to, those changes can be made.

CHAIRMAN WHITE: I think when we get to consideration on the document then I think a motion would be in order.

MR. TERRY STOCKWELL: Just a follow up to David Pierce's question about whether or not there is discussion about fishery independent data. There was in fact at the Maine public hearing a fair amount of discussion; some comments in support of inclusion of fishery independent data, particularly in reference to any work that was done by either states or academic research felt that any data was good data as long as it was vetted through the TC.

CHAIRMAN WHITE: Any other questions from the board? Seeing none; Jeff, Chair of the AP had a question for Ashton.

MR. JEFF KAELIN: I appreciate the board allowing me to speak. My question was, I think when you were talking about, and this is on Issue 3 the empty fish hold provision, Options B2 and C2, which wouldn't require federal adoption. I think you said that the states would be in a position where they would have to inspect every fish hold on every trip before people left.

I don't think that that is really what is being considered on the federal side. I think it is more of a spot check kind of a situation. I'm not sure

where you got the information that every trip would be inspected, but I think that is an issue that needs to be clarified.

MS. HARP: Thank you for clarifying that, Jeff.

CHAIRMAN WHITE: Emerson.

MR. EMERSON C. HASBROUCK: I do have a couple of questions. We're looking at a species that is about 200 percent over the target for spawning stock biomass, right? I'm looking at the problem statement here, which talks about spawning area efficacy and whether we're timing that properly; and then the empty fish hold provision as well.

I am wondering how important are these issues really to the resource as it currently exists? The other thing is, and I may have missed it at the beginning of your presentation, if so I apologize. The status quo provisions, when were they implemented and how long have those status quo provisions been in effect, and are they not helping us to reach our goal with this resource?

CHAIRMAN WHITE: Renee, do you want to answer that?

MS. RENEE ZOBEL: Yes I was just going to go back to the document that you all have in front of you. There is a history of the management in this fishery, and I don't have the page in front of me at the moment. If you bear with me one moment I can find it and then refer people to it.

But it has the history of the different management options and which amendment or addendum they were implemented with. Some of these have been in place longer than others. As far as the spawning closures, I'll have to go back to the document. Let me find that page and I can reference it and we can potentially get it up on the screen as well.

CHAIRMAN WHITE: Any other questions while Renee is searching for that?

MS. ZOBEL: Okay sorry for the delay on that. There have been extensive measures in this fishery over time. On Page 36 and 37 of the document it gives a little bit of a history of the different management that has occurred in the herring fishery, all the way from the original FMP, which was implemented. The spawning closures as they stand now were modified slightly, which was a time when I was very new to this fishery. In Addendum 5 they were slightly modified to where they are today; that was 2012. The spawning measures have been in place since 2012 as they stand today.

CHAIRMAN WHITE: Follow up.

MR. HASBROUCK: They've been in place since 2012 and then if I follow down on Page 38, in terms of the goals to achieve on a continuing basis optimum yield for the United States fishing industry to prevent overfishing, et cetera. Then second objective is to provide for the orderly development of the offshore and inshore fisheries, taking in to account the viability of the current participants in the fishery.

I apologize if much of this has been hashed out in the New England Council, but we don't have much of a herring fishery in New York, so I haven't been following that. But my question is, if the status quo has been in place since 2012, has the status quo been doing an adequate job in helping us to reach and maintain those two goals?

MS. ZOBEL: The Technical Committee and PDT specifically tasked this body with giving us specific goals, because that was somewhat a question of ours as well. We wanted to know last year if individuals remember at this meeting we said, is the purpose of us looking again at the spawning to protect spawning fish or to protect the act of spawning?

Essentially the answer was both. We've had a lot of feedback that the spawning closures are not adequate, they haven't been working correctly,

they are at the wrong time, and they need to be revisited. That allowed us as a technical body to go back and look at now a decade's worth of data to come forth with a presentation of a new methodology that we believe will do a much more adequate job protecting spawning fish and spawning that is occurring.

CHAIRMAN WHITE: One more follow up?

MR. HASBROUCK: I don't want to get into a protracted debate about this, so just one quick follow up. My question still remains though, have the status quo been adequate, have we maintained our goals adequately with the status quo? That is kind of a yes or no.

MS. ZOBEL: I don't know that that is a yes or a no answer. We've been tasked to look at this specific item, because it has been believed that it has not been effective based on the goals of the board. Whether that is correct or not, we've been asked to look at this time and time again, and now we've been able to take a look at many years of data in order to do that.

CHAIRMAN WHITE: I think to add to that too is the concern is even though we have a good healthy stock we want to maintain that and continue it in that situation. That is part of this effort as well. Any other questions?

MR. PATRICK AUGUSTINE: It always begs the question of when is enough, enough. I don't need an answer; it is kind of a rhetorical thing. We seem to want to get more and more and more, and the question always is at the expense of whom? We continue to do single species management. We worry about the impact on other fisheries. In the meantime the economic value goes up or down and the folks who are living on this, their income go down. It is a Catch 22, Mr. Chairman.



### ADVISORY PANEL REPORT

CHAIRMAN WHITE: Ashton now is going to give us the AP report. The AP has not met since the last meeting so to try to save some time she is just going to go ahead and give the recommendations that the AP gave to us at the last meeting.

MS. HARP: Okay as was stated I just have two slides here for the AP report. I did give the AP a chance to respond and maybe change their opinions if those had changed in the two months. It had not, so I will review what was presented at the annual meeting in a quick summary. For the spawning area monitoring system, there was general consensus in favor of Option C, the GSI30 based forecast system.

It was believed that it will improve accuracy and when the spawning area should close, and also it provided more advanced warning, which they were in favor of. There was one person in favor of Option A, status quo for default closure dates. There was no general consensus on the default closure dates. That was due to what they felt was the uncertainty of the outcome of picking a trigger.

But if they had to then they said five were in favor of Option C1, 70th percentile, they felt like it would provide additional protection, so fishing just prior to spawning would not happen. One person opposed the 70th percentile, because they felt it would require a longer closure period. For the spawning area boundaries there was general consensus in favor of status quo, maintaining the three spawning area boundaries.

They did not want a large coastal shut down if areas were combined. For the spawning closure period, seven were in favor of status quo. Some felt that there was not enough social and economic data to justify a six week closure at this time, and they felt like the four weeks was sufficient.

Three were in favor of Option B, six weeks. The spawning reclosure period, three were in favor of Option A; status quo, two were in favor of the defined protocol. Moving beyond the spawning area options, for the fixed gear set aside they were unanimously in favor of Option A; status quo. Keep the 295 metric ton set aside and it will rollover on November 1st.

The empty fish hold provision; they preferred the C options, which were the adjusted language options. This meant that the empty fish hold provision would only apply to vessels that can pump. Five were in favor of C2, meaning it is not contingent on federal adoption. The commission would move forward with it regardless of what Framework 4 final rule says. Two were in favor of only applying it to vessels that can pump, but only if it is contingent on federal adoption. That concludes the Advisory Panel summary. Any questions?

### CONSIDER FINAL APPROVAL OF AMENDMENT 3

CHAIRMAN WHITE: Any questions for Jeff or Ashton on that report? Okay seeing none; we will move into final adoption. I have a number of motions that people have already requested to make. I have decided to take each of these items individually as opposed to taking a suite of motions. I'll alternate between members making motions that have already made the motions, and I'll also look for hands if people want to make separate motions as well. I'll start with Terry.

MR. STOCKWELL: I do want to quickly respond to Emerson's question about the task, the work of the TC. I want to strongly respond. The TC did exactly what the Section requested that they do, which was to review the efficacy of the spawning areas. This request was in part an issue that the state of Maine raised with some questions we had about the default days in the eastern Gulf of Maine.

Our question was, are we doing the best job or aren't we? They had the opportunity to review multiple years of spawning closures and data, and came up with a new way of doing things; which to me was exactly what we tasked them to do, and I appreciate all the work that they did. **To that point, I am going to move to adopt Option C, GSI based forecast system for Section 4.2.6.1; the spawning area closure monitoring system.**

This system will be implemented for one year and will be reviewed by the Technical Committee in the Section for effectiveness. If the GSI-based system is effective it can be continued either indefinitely or for a time certain by a majority vote of the Herring Section. If the Section deems the GSI-based system to not be effective a spawning area closure monitoring system will automatically revert to Option B. If I get a second I will give my rationale.

CHAIRMAN WHITE: Second, Mr. Abbott.

MR. STOCKWELL: Thank you, Dennis. Option C was favored by the AP and a number of the public comments. As I just stated, I continue to support the work of the TC and I am attracted to a completely new concept that better targets closures to a period of time when a majority of the fish are spawning. At this point I favor the advanced warning system and that samples come from both independent and dependent sources.

Allowing the system to be reviewed after one year addresses the public comments expressing concern that we may have done too much too quickly. Should the TC or Section not support extending the forecast system, then Option B reinstates the status quo sampling program, addresses the concerns raised concerning sufficient sampling by adjusting to include both fishery dependent and independent data. I thank the TC. I think you did a great job.

CHAIRMAN WHITE: Any discussion?

MR. PIERCE: Yes, I also believe the TC did a great job on this. It's been long in development. Yes indeed it is a bit of a, well it is new, a new approach but it is worthy of our trying and Terry's motion is to that effect. In other words we'll see how it works and if not then we bounce back to something a little less on the projection side, we use Option B.

I favor this forecast system as well. I am a bit concerned about the numbers of samples that would be used with this GSI30 based forecast system. In other words, we use a minimum of three fishery dependent or independent samples each with 25 female herring; and it is a bit different from Option B where more fish are taken with one less sample.

But I am not going to argue over this, it would be kind of a hair splitting. I would rather go with what has been offered up to us as a progressive way forward, and then we see how it works. I favor the option. I favor the motion. The only thing I don't see as part of this motion, and maybe Terry or someone else is going to address it in a subsequent motion, and that would be the GSI30 trigger value. I am assuming it is going to come up as another motion. With that said then, again I support the motion.

CHAIRMAN WHITE: Any other comments? Yes, Emerson.

MR. HASBROUCK: A concern I have with this motion is that it includes the term effective in there several times. I'm not sure what that means. That we will implement it for one year and then review its effectiveness, and if it is effective then it will go on until we decide to change it. How are we going to quantify effectiveness; I guess is the question?

MR. STOCKWELL: Thanks for the question. You've had the luxury of not having to live the weekly section meetings we have year after year after year as we try to balance out the Period 2 quota. The forecasting that we do in the days

out scenarios and the intent to take what seems to be a large amount of quota and make it last from the first of June through the end of September, it has been a challenging job.

This effort is layered over by the spawning protection and effective I think, at least from the vision of the northern New England states would be that we're able to parse the quota out through Period 2 and that there is a fair and equitable access to the resource by the players. We have a trawl fishery that starts effective the first of October and they have their access to the fishery after the purse seine only fishery concludes.

I think if this body after the Technical Committee reviews the protection of, have we actually protected the fish at the time when they're spawning will be the first question. The second will be, have we as a section provided opportunities for the industry to fully harvest their quota and spread it over the period of time?

MR. HASBROUCK: Thank you for putting that on the record.

CHAIRMAN WHITE: Terry, Renee would like to ask a question.

MS. ZOBEL: Terry, in your motion you lay out that you would like the TC to evaluate the effectiveness. Just curious if you have any specific thoughts along those lines how we would evaluate. For example, when scenarios are playing, because there are so many different options within this option essentially, so for example if you were to go with this methodology and say you chose the 70th percentile.

The most protection for pre-spawning fish and went with the four week closure, you run the risk of having spawning fish on the tail ends, because you went to protect more pre-spawning fish. It may look like this was not effective when really it was just the very conservative tied in with the

four week closure. Do you understand where my question is coming from?

MR. STOCKWELL: Exactly. It was originally my intention to make a package motion, but the Chair has decided to take them in five bite-sized pieces, so we'll find out what the Section, should this motion go up or down, we'll find out what the will of the Section is and then we'll have at least a target to work with.

CHAIRMAN WHITE: Okay any other? Yes.

MR. AUGUSTINE: I understood your description of effectiveness, Terry and I understand the mess you guys got in the last couple years up there. But if this motion is a standalone and goes out without the clarification as you described, then again we're still left with what does effectiveness mean? For clarification purposes again, Terry, either you or the staff would put together I would hope, a list of those possible measures of effectiveness. Otherwise, I think this is going to be left open to interpretation. Am I correct or did I miss something?

CHAIRMAN WHITE: Terry?

MR. AUGUSTINE: Nobody wants to touch that with a ten foot pole, huh?

CHAIRMAN WHITE: You want to try that, Terry?

MR. STOCKWELL: Sure. I can't answer that right now, Pat, until I see what the final vote of the Section is. You know we've got four other measures that need to be rolled into the spawning area closure monitoring system for approval by the Section. I think it would be incumbent upon, I'll certainly volunteer myself and my staff, who is on the TC, to come back with a proposal for the Section; and if we're scheduled to meet at the spring meeting we can review it at that point, if that works with you, Mr. Chairman.

MR. GROUT: Yes, thank you Mr. Chairman and thank you Terry for making this motion. I think it is a reasonable motion to have us transitioned into something that could potentially help us with our spawning closure management here and improve things. I certainly understand the desire to have a “let’s try it out for a year and see how it works” provision, as long as we can move it forward following a favorable review of the program with just a board vote; as opposed to a management action. I support this motion.

CHAIRMAN WHITE: Any other? Seeing none, do we need to caucus? **I’m seeing shaking heads, and then all in favor of the motion please raise your right hand; opposed, abstentions, nulls. It passes unanimously.** Now we need a motion on Option C, whether it is one, two, or three. Doug, did you have a motion for that?

MR. GROUT: One of the things that were missing from this was the Technical Committee wanted us to select a trigger value, which whether the GSI30 trigger would be 23, 25, or 28. Also tied to that were these trigger-values, potentially would be the default closure dates; which are shown down on Page 58 and 59. **My motion is under Section 4.2.6.1, the trigger value will be the 80th percentile GSI30 trigger equals 25.** Also as far as the default date, Sub-Option C2 would be selected. If I can get a second to this I would like to give my rationale for this.

CHAIRMAN WHITE: Second by Mr. Stockwell. Go ahead, Doug.

MR. GROUT: One of the things we need to look at is to make sure that we are covering sufficient spawning closures, covering sufficient fish; making sure that we’re covering the spawning fish. One of the things that I saw with the 80 percent is it doesn’t push us right up to the end, yet it doesn’t go too early.

But more importantly to me when I saw what the default closure dates were for some of the other options, and understand what the default

closure dates are for is in case we don’t have any samples where we cannot predict. It was going particularly with Option C3 if we were to choose the 90th percentile. We would have a default closure date that is a full three to four weeks after what our current default is, and with the exception of a couple years we have had evidence of spawning fish from our sampling on or before September 21st.

I was not comfortable with going out that far with a default closure date. I am much more comfortable with something closer to the beginning of October. Again, if we have samples it may come earlier, it may come later. It all depends on what the fish samples are showing. I support this and thank you.

CHAIRMAN WHITE: Any other comment?

MR. STOCKWELL: I support Doug’s motion as well. I was prepared to come in with a different number, but questions that both Emerson and Renee asked on how to measure effectiveness, I think after another year we’ll run this through the process and see where it lands. We may – assuming we decide a year from now to continue the forecast system – we may end up amending this approach. But it’s a good start.

CHAIRMAN WHITE: Any other comments? Seeing none; sorry, Dave.

MR. PIERCE: I’ve labored over this as well, in part because at least one set of comments had indicated that if we chose the option that we did choose in the previous motion they would support the 90th percentile; that is the GSI30 trigger is equal to 28, which closes the fishery just prior to spawning.

I was seriously thinking about using that option or selecting that option. But after giving it more thought and after reading the document again to determine what our objective is, what our concerns are, the statement of the problem. This strikes a middle-of-the-road approach,

which is acceptable. Going with the 70th percentile is just too conservative, because it would close the fishery too soon, before the fish really are getting ready to spawn.

The 90th percentile really puts on the edge; we close just prior to spawning so we could miss it. It could be spawning and we miss it. This 80th percentile gives us a better chance of closing when it needs to be closed and as it says in the document itself, we deal with later stages of maturity and just before spawning. It is precautionary, it is conservative but it is not too precautionary and too conservative, which obviously works to the detriment of some of the users of this resource.

CHAIRMAN WHITE: Any other comments? Seeing none; need to caucus? Seeing a few shaking heads. Is there a need to caucus? Take a minute. **Okay all in favor raise your right hand; opposed, nulls, no votes, it passes unanimously.** Okay 4.2.6.2, Terry, you have a motion?

MR. STOCKWELL: **I move to select under 4.1.3 Option A, status quo: Maintain the current spawning areas.**

CHAIRMAN WHITE: Is there a second? Bill Adler. Want to speak to it, Terry?

MR. STOCKWELL: Yes sure, rationale is pretty straightforward. It was strongly supported by the industry, who expressed a lot of concern about the potential for some huge shut downs at a time of the year when we're trying to effectively parse out the bait through Period 2. I think given that we're going to be reviewing this entire action in a year from now that status quo is the best decision.

CHAIRMAN WHITE: Any other comments? Any need to caucus? **Seeing none; all in favor raise your right hand; opposed, nulls, no votes, it passes unanimously.** Doug, do you have a motion for the next item?

MR. GROUT: **Yes, I move to select under Section 4.2.6.4 spawning closure period, Option A status quo, four weeks.**

CHAIRMAN WHITE: Second by Mr. Stockwell. Want to speak to it, Doug?

MR. GROUT: Yes. One of the things that I think a four week closure is appropriate as long as we have the mechanism to reclose in place, which we currently do and hopefully in a follow up motion we will be able to refine it so that we can do it a little bit quicker. But I think that is a key thing from my perspective; that if we're going to stay with four weeks we need to have a reclosure option.

MR. PIERCE: Yes. Doug stated it very well, but I'll just highlight some very important text and logic that presents it in the document itself and that is on Page 24 under spawning area efficacy. It is the paragraph at the bottom of Page 24, and this is quite important. I think all of us have learned this the hard way; that is the impacts of lengthy closures. It says: an extension of the closure period from four to six weeks, which represents one aspect of the potential changes, could potentially have a negative impact on the herring industry.

Fishermen and bait dealers know the stock is rebuilt, and indeed it is. Therefore, further protection via a six week closure is not warranted and will reduce market opportunities, and I believe that is correct. Additionally fishermen expressed concern that effort on mid-water trawlers could be displaced farther northeast where smaller fish are located if the spawning closure lasts up to six weeks.

Over the years I've certainly witnessed that happening. The Mid-water trawlers moving to the north and to the east, fishing in areas where smaller fish can be found and are found; of course purse seiners do the same thing, not just mid-water trawlers. Consistent with my desire and not to promote anything that would prompt

the fishery itself to shift onto smaller fish, I would say that this is a good logic for us, sticking with status quo.

CHAIRMAN WHITE: Any other comments? Seeing none; need to caucus? **Seeing none; all in favor raise your right hand, opposed, null votes, no, it passed unanimously.** Doug, do you have a motion on the reclosure protocol?

MR. GROUT: Yes since this is part of the same section, **I move to select under Section 4.2.6.4 spawning closure period reclosure protocol Option B, define protocol.**

CHAIRMAN WHITE: Second by Mr. Stockwell. Any comments? Doug, do you want to speak to it?

MR. GROUT: Yes, one of the issues we had last year, was we had some samples prior to the reopening. According to the current management plan we couldn't use those samples, even though they suggested that spawning was still ongoing. I think we need to modify that to allow samples to be taken from either fisheries dependent or fisheries independent sources in that week before we reopen, so that if we do see spawning still occurring that we can keep it closed without having to reopen it first.

CHAIRMAN WHITE: Any other comments? Seeing none, oh Dave, sorry.

MR. PIERCE: Yes Doug has described what happened last fall in that the fishery opened up. Spawning was deemed to be over, but we decided of course to continue to monitor as we are obliged to do. We were informed in Massachusetts anyways and the other states as well that spawning was still ongoing. There was some discrepancy regarding whether or not that was true.

My staff and the state of Maine staff either did not communicate or there was a

misunderstanding. As it turns out the sample of fish that was used to judge that the fish were still spawning, I believe was from an otter trawl trip not in the general area; that is of great concern to me, notably off of Massachusetts.

We decided to do what we thought was the right thing, which was to sample the fishery that would be impacted by a continued spawning closure in a major way, and that was the mid-water trawl fleet. We had opened and then we sampled immediately when the fish came in, and the spawning was still going on at a relatively low level but high enough. We are reclosed. This particular Option B does potentially put us in a position where the same situation might occur again.

That is what constitutes fishery independent information that would warrant a reclosure of a fishery that has been closed for a while, and actually waits to get going again in hopes that the fish are not spawning or they will go to an area where the fish are not spawning. I am uneasy about this, primarily because of the fact that again fisheries independent information is not defined well enough. I am going to oppose the motion for the reason that I've just stated. I just don't want a repeat of what happened this past fall.

CHAIRMAN WHITE: I know some of dependent information could come from tuna fishermen that are rod and reel herring, and I know that last year they volunteered to provide samples. That could be a method of getting dependent.

MR. PIERCE: If I may, Mr. Chairman. That is quite correct, but as we all know there is a great deal of controversy and conflict between those individuals who rightfully so are concerned about the impact of mid-water trawling specifically on the availability of tuna. If I am to say to the mid-water trawl fleet operating out of Gloucester, oh by the way we are reclosing because tuna fishermen have reported that the fish are still spawning. That is a problem. That is

another reason why I don't support this motion, because of the possibility that the fishery to be impacted by a reclosure will not be the fishery that is resampled to determine if the fish are still spawning.

MR. STOCKWELL: I share David's concern but I have a different perspective. My sense is that this motion will preclude that from happening again. I guess going back to the general theme of effectiveness, we'll know for sure at the end of the year.

MR. ADLER: My concern on this thing goes back to what David had said something about. The samples were taken from otter trawls. From what I understand the spawning fish – correct me if I'm wrong – the spawning fish frequently on the bottom and the spent fish where the mid-water trawlers and probably the purse seiners would get them, has moved up in the water column.

If you are going to test for spawning fish and you pick them off the bottom, oh yes they're all spawning, and maybe they're not. I don't know how to fix that but if that is the scenario, we've got to be very careful when we go and take that test, where we're getting that fish from.

CHAIRMAN WHITE: Any other comments? Need to caucus? Take a couple of minutes. **Okay are we ready? All those in favor please raise your right hand; opposed, null votes, passes 6-1.** Okay I think we're 4.2.7.1. Terry, do you have a motion?

MR. STOCKWELL: I move Option B to remove the rollover provision. My terminology is a little bit impeded, because I think I've got the wrong numbers in my notes, so I'm going to have to refer to Mike to get the right numbers up on the board.

CHAIRMAN WHITE: Second. Seeing no second, is there another motion? Doug.

**MR. GROUT: Move to select under Section 4.2.7.2 fixed gear set-aside provision adjustment, Option A status quo.**

CHAIRMAN WHITE: Is there a second? Bill. Mr. Adler, second. Do you want to speak to it, Doug?

MR. GROUT: My rationale is that the data in the document shows that they rarely have caught fish after November, and the advisory panel was supporting the status quo on this.

MR. STOCKWELL: I am going to speak in strong opposition to this motion. It is certainly obvious why there are no landings after the first of November; it is because the fishery is closed. There is no opportunity for the small fixed gear fishermen to have any access to the fish after the overall quota is gone. Pat Keliher and I met with fixed-gear fishermen the last number of years reporting that bunches of fish have arrived close to closure of the overall 1A fishery and they've had no opportunities; 295 ton is not a great deal of fish.

We've bent over backwards sometimes in this commission to help the smaller guys, and it is not a small amount of fish. Look at the AP composition. Until recently we had no fixed gear fishermen on there. By the time we finally had them put on the AP; the AP had already made the recommendation. For those reasons I do not support this motion.

MR. ADLER: Yes, my question on this had to do with the fact that if they don't use the 295 or 6 metric tons it gets rolled into Area 1A, and the fixed gear fishermen could still use it; it is just coming out of 1A. Now I do understand what Terry just said about, well yes but when the whole thing closes the whole thing closes and you lose it. But I don't know if they don't take the 295, they don't take all of the metric tons and they keep it. They can keep fishing if the fish show up again after 1A is closed, and if they don't take it then what happens to let's say the

195, or whatever it is, they have left over? Do we just lose it?

MR. STOCKWELL: That is correct. If out of the 295 tons there has only been, as Doug pointed out, there is a small amount of it harvested prior to the closure of the overall quota. Should this option be moved ahead it would allow the fixed gear fishermen the opportunity to fish until the end of the calendar year. Any uncaught fish would be of conservation value, would not be available for use the following year.

CHAIRMAN WHITE: Any other comments, seeing none; do we need to caucus? **Seeing shaking heads, all those in favor raise your right hand; opposed, motion fails 4 to 2.** New motion?

MR. ROB O'REILLY: Mr. Chairman, I abstained on that one.

CHAIRMAN WHITE: Oh you abstained, I'm sorry. Thank you, Rob. The vote was 4, 2, 1. That would mean that status quo stays in place. Okay 4.2.8.

MR. STOCKWELL: Point of order. Toni.

MS. TONI KERNS: He can have another crack, maybe worded a little differently I guess. If it didn't get a second then technically it wasn't on the board for the parliamentary reason, I think. Mr. Chairman it is your decision. You can't do the same motion at the same meeting, but it failed for a lack of a second. Dennis is a good Robert's Rules of Order for me.

MR. DENNIS ABBOTT: I don't believe that can be brought up again.

CHAIRMAN WHITE: Yes, go ahead, Mark.

MR. GIBSON: I would have seconded that motion. It happened so fast. I don't know if that means anything now, but I would have had I been going as fast as you were.

CHAIRMAN WHITE: Do you have a comment, Doug?

MR. GROUT: Yes, just on this. I think my take on this from the Robert's Rules of Order is that if he had clearly made a motion that had been seconded and it had been defeated, you could not bring it up at the meeting. But it never received a second, so it really was not a motion that the board had at that particular point in time.

Given the fact that we're now in a conundrum that the status quo has failed, I think it would be warranted; unless somebody here at the board or maybe my parliamentary expert thinks that I may be in error. I think you could take this, since it was not seconded and was not on the floor.

CHAIRMAN WHITE: Dennis, can you bail us out of this?

MR. ABBOTT: I was out of the room, so I'm not sure really what happened. But from what I gather, maybe Senator Langley can agree or disagree. Trying to get back to this motion?

CHAIRMAN WHITE: We're trying to get back to the motion that Terry had made that didn't get a second.

MR. ABBOTT: I can't comment on that. That is just not there anymore. I don't see why not. There was no action taken on it. There was no vote taken. There could be another person in attendance who suddenly feels that they would be willing to second the motion.

CHAIRMAN WHITE: Unless there is an objection, I'm going to take the motion a second time if you would like to make it, Terry.

**MR. STOCKWELL: Thank you, Mr. Chairman. I would move to select under Section 4.2.7.2 fixed gear set-aside provision, Option B.**



CHAIRMAN WHITE: Is there a second? Mark. Do you want to speak to it again, or you don't think there is a need?

MR. STOCKWELL: I don't want to test my luck.

CHAIRMAN WHITE: Need for a caucus? **Seeing none; all in favor raise your right hand, 7; okay opposed none, null none, it passes unanimously.** Empty fish hold provision, Doug.

MR. GROUT: **I would like to move to select under Section 4.2.8, empty fish hold provision Option C1; federal/state empty fish hold provision for select vessels.**

CHAIRMAN WHITE: That motion does make it contingent on federal adoption?

MR. GROUT: It is contingent upon federal adoption; it is only going to be applied to A and B vessels that must pump fish. I think it gets at what we're trying to do here, and again it is contingent on whether the federal provision is approved; which I think is important to be as consistent as possible with our federal partners here

CHAIRMAN WHITE: Is there a second? David Pierce. Speak to it, David.

MR. PIERCE: I don't know where this stands right now with federal review. I can't recall what the service has said publically on this particular issue. But why not take the lead and indicate to the National Marine Fishery Service that this is something we feel should occur? We'll make it contingent upon their implementing the option and we'll assume that they will.

I can support this motion and just hope that the service will overcome whatever reservations it may have about this particular empty hold provision and go with it. I know that at our Gloucester public hearing everyone was in favor of this particular measure, including those who are involved in the mid-water trawl fleet. They

said there was absolutely no reason why a vessel should be going back to sea with fish onboard. I would say there is a lot of support from the industry for this particular strategy and I hope it passes.

CHAIRMAN WHITE: Mark, did you have? Eric.

MR. ERIC REID: I would like to thank the commission for spending so much time on this particular issue. Obviously I would support it. What it does is it fully reflects actual fishing practices. I'm not talking about wasteful fishing practices. Hopefully the commission will follow through and pass this one along as well.

CHAIRMAN WHITE: Any other comments? Seeing none; need for caucus? **Seeing no heads shaking all those in favor, raise your right hand; 7, okay opposed, nulls, passes unanimously.** Doug did you have a motion on implementation date?

MR. GROUT: Yes, I didn't send it to Ashton but I'll put up a motion on an implementation date for board consideration. I'm not tied to this date. **I was going to move to have an implementation date of June 1, 2016.** If I get a second to that I'll give my rationale for that date.

CHAIRMAN WHITE: Second, Bill Adler.

MR. GROUT: Yes that is the beginning of the 1A fishery every year, based on our Section action here. It seems if we have this in by place by then even if the states can do this in their regulatory process it seemed like an appropriate date to have an implementation.

CHAIRMAN WHITE: David, you have a comment?

MR. PIERCE: Well, obviously we'll move forward as fast as we can to implement what needs to be put in place. But just as a word of caution, it may be difficult for us to make this implementation date of June 1st, because of the new nature of

the review within the commonwealth as to what regulations are going to go to public hearing, what comes out of public hearing. It has become a lot more complicated for us in the last few years. If this passes we'll strive for June 1st, but I just wanted to make everyone aware that it may be July or August. But we'll move as quickly as we can on it.

CHAIRMAN WHITE: Any other comments? Yes Mark, go ahead.

MR. GIBSON: I would just express the same concerns for Rhode Island. We're into February. We already have a loaded public hearing docket, in-house actions. I wouldn't ask the date be changed, but I think we can make it but you never know.

MR. STOCKWELL: Ditto for Maine.

CHAIRMAN WHITE: Okay all on the record. Need to caucus? **Seeing no heads shaking, all in favor raise your right hand, opposed, null votes. The motion passes.** Okay now we're going to need a motion to pass the amendment. This will be a roll call vote. Bill, would you like to make that motion?

MR. ADLER: **Yes, I would like to make a motion that we pass this amendment as adjusted today and as chosen today. Is that what you want?**

CHAIRMAN WHITE: Yes, is there a second? Oops, stand by, Toni?

MS. KERNS: **Bill, because this is an amendment we need to take this to the full commission, so it would be move to recommend to the full commission to approve Amendment 3 as modified today.**

MR. ADLER: That sounds good. Yes that is what I said.

CHAIRMAN WHITE: I thought you said that, Bill. Is there a second? Steve Train. Need to caucus?

Seeing non heads shaking, we'll need the roll call read.

MS. HARP: Terry Stockwell.

MR. STOCKWELL: Yes.

MS. HARP: New Hampshire.

MR. GROUT: Yes.

MS. HARP: Massachusetts.

MR ADLER: Yes.

MS. HARP: Rhode Island.

MR. REID: Yes.

MS. HARP: Connecticut.

MR. DAVID G. SIMPSON: Yes.

MS. HARP: New York.

MR. HASBROUCK: Yes.

MS. HARP: New Jersey.

MR. RUSS ALLEN: Yes.

CHAIRMAN WHITE: **Okay it passes unanimously, very good.** I know we're trying to make up time. I had one more agenda item that I requested of Ashton, and that is overview of the research set-aside program. You have a written document that was handed out. My suggestion is that we wait until the next meeting for her to go over that and answer any questions. If there are no objections to that move to the last item of business.

#### ADJOURNMENT

Is there any new business, seeing none; the motion to adjourn?

(Whereupon, the meeting was adjourned at 3:12 o'clock p.m., February 2, 2016.)

# **Atlantic States Marine Fisheries Commission**

## **WHITE PAPER ON ATLANTIC HERRING AREA 1A FISHERY PERFORMANCE IN 2015 AND 2016**

Ashton Harp, Atlantic Herring Fishery Management Plan Coordinator

October 2016

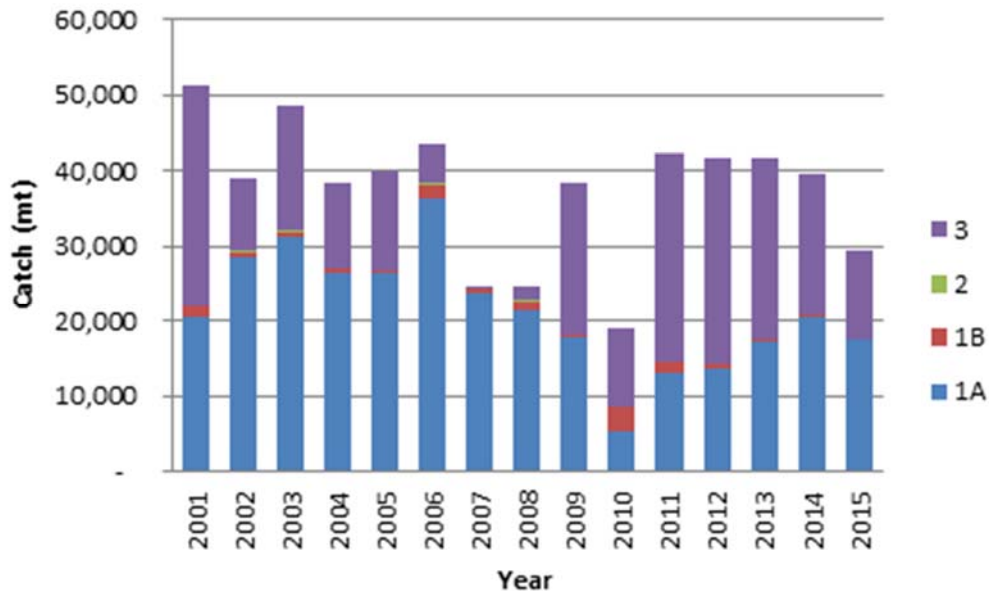
### **I. OVERVIEW**

This white paper provides an overview of Area 1A Atlantic herring management, landings and alternative management tools for consideration by the Atlantic Herring Section when it meets to discuss fishery performance in October 2016. It is being brought forward by a subset of the Section (member states of Maine, New Hampshire and Massachusetts) to elevate to the full Section issues that were identified during recent days out discussions. In particular, the accelerated pace of Area 1A Trimester 2 landings and the increasingly dynamic nature of days out measures to control Trimester 2 effort that have varied across states. The list of identified alternative management tools to address these issues is not a comprehensive list and should be viewed as topics to discuss, not pre-determined pathways.

### **II. INTRODUCTION**

The Atlantic herring summer and early fall fishery (June-September) recently has been most active in Areas 1A and 3 (Figure 1). Demand is primarily driven by lobstermen during this timeframe because herring is the preferred bait for lobster traps. Traditionally, inshore (Area 1A) and offshore (Area 3) herring landings combined with (inshore) effort controls have supplied fishermen and the bait market with adequate amounts of herring. The primary effort controls in Area 1A are landing day restrictions and seasonal quotas.

In 2015 and early in the 2016 fishing season, the Area 1A seasonal quota was harvested at an above-average rate and there were concerns about the availability of Atlantic herring bait throughout the summer and early fall months (June-September). In response, Atlantic Herring Section members from Maine, New Hampshire and Massachusetts reduced the number of landing days available to herring harvesters in Area 1A. In 2016, Maine took additional measures to restrict fishing days, weekly landings, at-sea transfers, etc. to further slow the rate of harvest.



**Figure 1. Harvest by Management Area from June through September, 2001-2015**  
**Source: NMFS**

### III. BACKGROUND

#### DESCRIPTION OF AREA 1A MANAGEMENT

The U.S. Atlantic herring fishery is currently managed through complementary fishery management plans (FMPs) by the Atlantic States Marine Fisheries Commission (ASMFC) and the New England Fishery Management Council (NEFMC). The stockwide annual catch limit (ACL) is divided amongst four distinct management areas: inshore Gulf of Maine (Area 1A), offshore Gulf of Maine (Area 1B), Southern New England/Mid-Atlantic (Area 2), and Georges Bank (Area 3). The Area 1A fishery is managed by ASMFC’s Atlantic Herring Section, which includes representatives from Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York and New Jersey.

The Section can use bi-monthly or trimester seasonal quotas to distribute the Area 1A sub-ACL to best meet the needs of the fishery. The actual splits (amounts or percentages by months or trimesters) are set as part of the annual specifications process. Since 2009 (Addendum I to Amendment 2), the Section has split the Area 1A sub-ACL into trimesters as follows:

**Table 1. Current seasonal quota allocation of the Area 1A sub-ACL**

Trimester 1	January 1 - May 31	0% <sup>1</sup>
Trimester 2	June 1 – September 30	72.8%
Trimester 3	October 1 – December 31	27.2%

<sup>1</sup> NEFMC has proposed a seasonal Area 1A sub-ACL division of 0% from January-May in the 2013-2015 and 2016-2018 specifications.

The Section also utilizes days out of the fishery to slow the rate of Area 1A catch so the seasonal quota can be spread throughout the entirety of each trimester. The phrase 'day out' originally meant one could not fish or land on a day out of the fishery. At present, it refers to a no landing day. Prior to each trimester, Section members from states adjacent to Area 1A (Maine, New Hampshire and Massachusetts), with input from stakeholders, set the number of Area 1A landings days per week via a Days Out Meeting.

At each Days Out Meeting the Atlantic Herring Technical Committee provides projected landing day scenarios based on the catch rates from the previous three years. The states adjacent to Area 1A agree to the start date, the numbers of days out of the fishery per week, as well as which consecutive days of the week a vessel can land Atlantic herring. For example, '4 days out' would be interpreted on a weekly basis, meaning 4 consecutive days out of each week will be no landings days. If states cannot agree on the specific days out then the decision will go before the full Section at the next ASMFC meeting or at a special meeting of the Section called by the Chair. Adjustment to the days out can only be made if states hold another meeting or conference call.

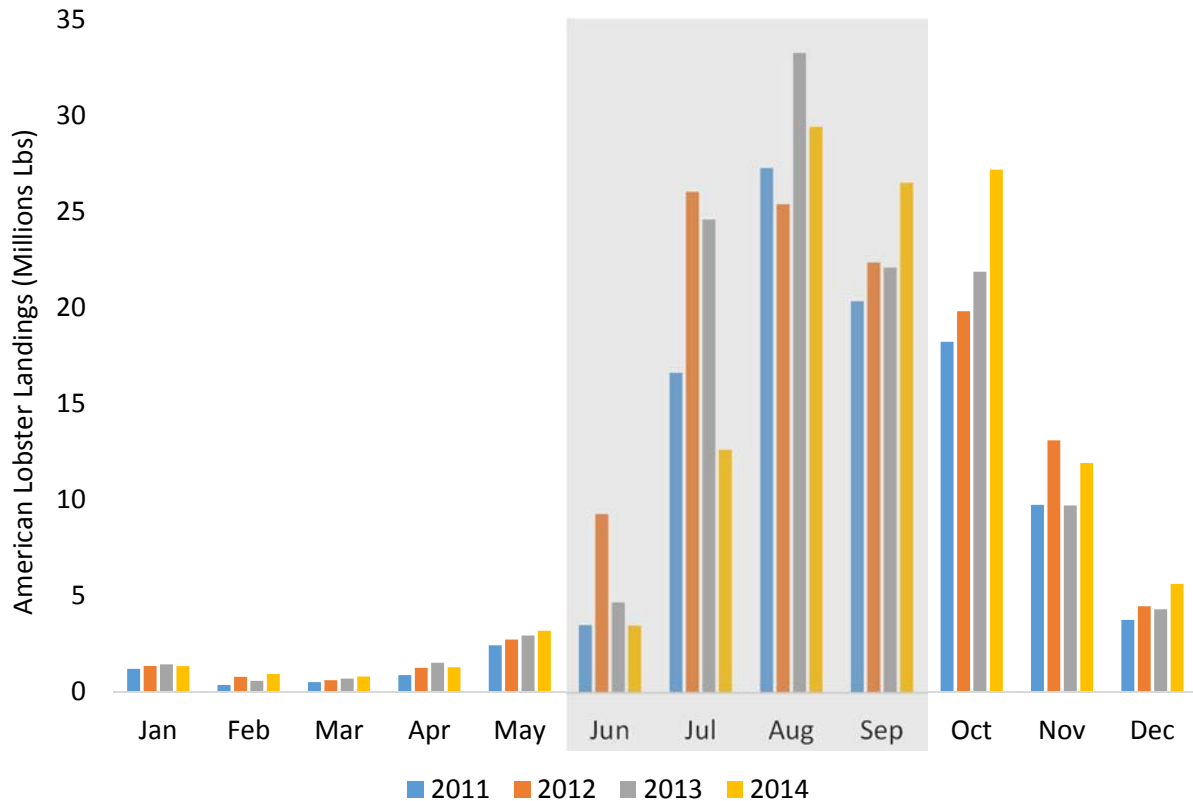
### **HISTORY OF AREA 1A EFFORT CONTROLS**

The days out management measures, first implemented in 1999 via Amendment 1 to the Atlantic Herring FMP, established fixed days out of the fishery relative to harvest levels. It was called a 'day out' because a vessel could not land or fish on the designated days out. For example, Friday, Saturday and Sunday were no landing/fishing days when 75% of the total allowable catch was expected to be exceeded; at 90%, Monday also became a no landing/fishing day. Amendment 2 (2006) removed the fixed landing days and allowed Section members to decide the specific days out of the fishery, as long as they were consecutive days. Consecutive days are seen as more effective because the fishery has to wait a period of time before resuming fishing efforts.

In the 2007 and 2008 fishing years there was a bait shortage due to a reduced Area 1A quota and increased effort including an increase in the number of carrier vessels. The Section took action via Addendum I to Amendment 2 (2009) by creating seasonal quotas (bi-monthly periods or trimesters) to control effort and distribute the quota seasonally. In addition, a process to determine days out of the fishery was established, and the prohibition on fishing during a day out was removed due to jurisdictional concerns from the ASMFC Law Enforcement Committee. These days out measures and seasonal quotas are the primary effort controls in the Area 1A fishery.

### **AREA 1A EFFORT CONTROLS IN PRACTICE**

The majority (72.8%) of the Area 1A sub-ACL has been allocated during the months of June through September (Trimester 2). This time period largely overlaps with the peak months for lobster landings (Figure 2), where herring is the most widely used bait type (Dayton et al 2014).



**Figure 2. Monthly landings of American lobsters in Maine (2011-2014). The months within Trimester 2 of the Atlantic Herring Area 1A fishery are shaded in grey. Source: ACCSP**

Table 2 shows the historical landing days during Trimester 2 of the Area 1A fishery. At the start of the season, managers make planned landing day adjustments based on fishery performance from previous years. At times, managers have to make reactionary changes in-season to increase or decrease the landings days based on the amount of seasonal quota available.

In 2011, 2012 and 2014 managers gradually increased the amount of landing days such that Trimester 2 ended with seven landing days to ensure the seasonal quota was harvested. In 2013, the season opened with seven landing days and was restricted to zero landing days by the beginning of September. In 2015, managers planned to gradually increase the amount of landing days, but instead the fishery was restricted to zero landing days by the end of August. In 2016, the Section planned to gradually increase the number of landing days in June/July, however, higher than expected landings in the latter half of June resulted in landing day restrictions in mid-July and mid-September.

**Table 2. Area 1A Landing Days during Trimester 2 (2011-2016)**

Year	Trimester 2	Landing Days	Comments
2011	June 1 – June 26	2	3 in-season planned changes; 1 reactionary
2011	June 27 – July 17	3	
2011	July 18 – Aug 7	4	
2011	Aug 8 – Sept 30 ( <i>reactionary</i> )	7	
2012	June 1 - 30	2	3 in-season planned changes
2012	July 1 – 14	4	
2012	July 15 – Sept 30	7	
2013	June 1 – Sept 30	7	1 reactionary in-season change
2013	Sept 9 – 30 ( <i>reactionary</i> )	0	
2014	June 1 – July 6	5	1 reactionary in-season change
2014	July 7 – Sept 30 ( <i>reactionary</i> )	7	
2015	June 1- July 5	5	2 in-season planned changes; 1 reactionary
2015	July 6 – Aug 27	7	
2015	Aug 28 – Sept 30 ( <i>reactionary</i> )	0	
2016	June 1 – 30	3	3 in-season planned changes; 2 reactionary
2016	July 1-14	4	
2016	July 15-23	5	
2016	July 24 – Sept 17 ( <i>reactionary</i> )	2	
2016	Sept 18 – Sept 30 ( <i>reactionary</i> )	0	

#### IV. RECENT CONCERNS ABOUT AREA 1A FISHERY PERFORMANCE

##### **2015 FISHING SEASON**

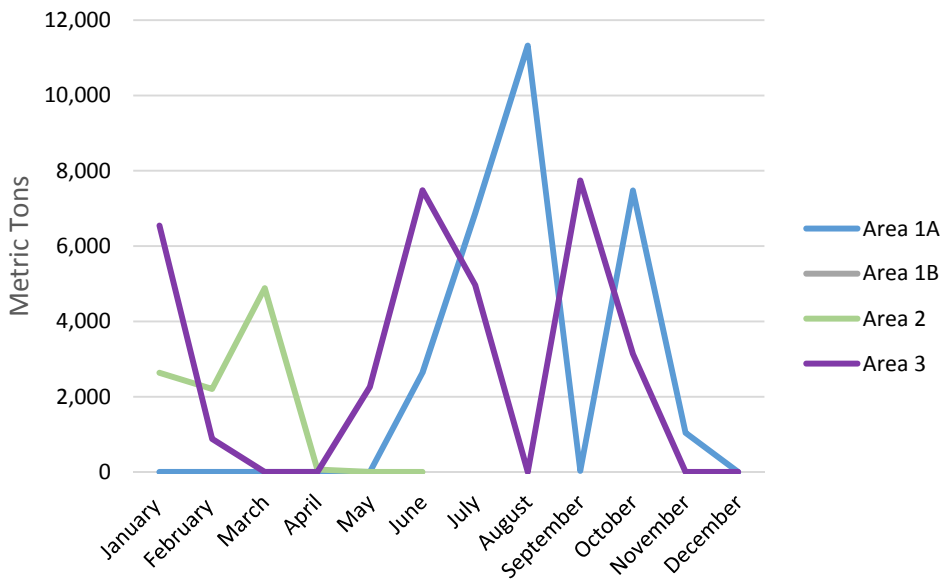
*Concern: In Area 1A the rate of landings accelerated in August such that the seasonal quota was exceeded on August 28; triggering a zero landing day scenario for all of September.*

During June – September, the focal months of the white paper, the source of Atlantic herring landings were from Area 1A and Area 3. Figure 3 provides a monthly overview of Atlantic herring landings in 2015. Figure 4 shows a July/August increase in Area 1A landings as Area 3 landings became stagnant, likely due to Georges Bank haddock catch cap concerns<sup>2</sup>. Based on preliminary haddock data, 63% of the Georges Bank haddock catch cap had been used by the midwater trawl fleet at the end of July (Table 3)—Area 3 landings decreased sharply in August. This lack of Area 3 landings in August disrupted the flow of herring supply to markets and put more pressure on Area 1A.

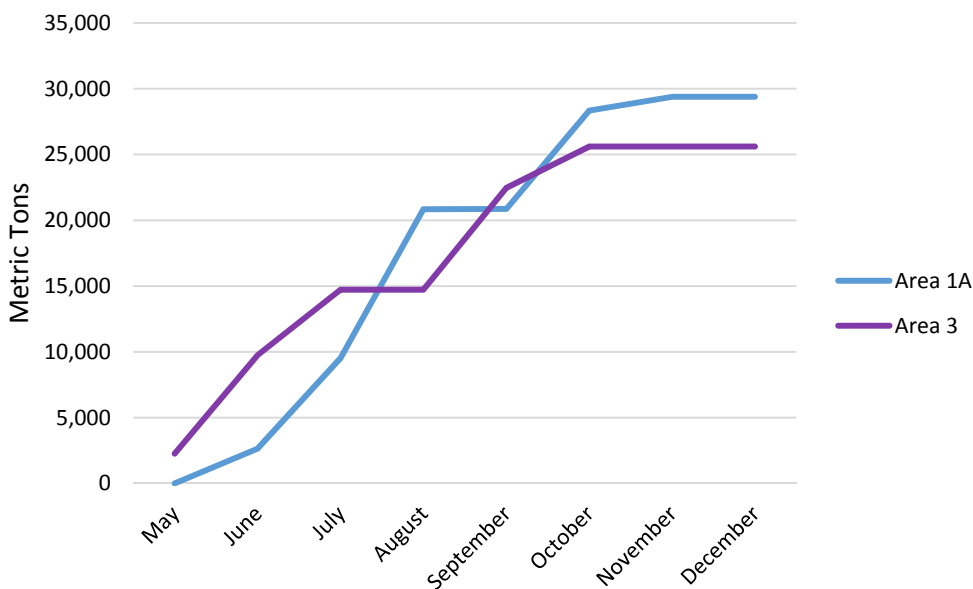
On August 26, the Commission scheduled an emergency days out call to discuss the increase in Area 1A landings. Some harvesters agreed to stop fishing until the next landings report was

<sup>2</sup> Haddock comprises the largest component of groundfish bycatch by midwater trawl vessels directing on herring, and the catch of haddock by these vessels is managed by the New England Fishery Management Council (NEFMC) through a catch cap and increased monitoring/sampling (Amendment 5 to the NEFMC Atlantic Herring FMP).

released. Ultimately, the sudden increase in effort in August could not be diminished by decreasing the number of landing days, rather the Area 1A fishery moved to zero landing days on August 28. As a result, Atlantic herring vessels could not fish in Area 1A during the month of September, when demand for herring is strong. Area 1A re-opened for Trimester 3 on October 5, 2015 with three landing days and closed on November 9, 2015.



**Figure 3. 2015 Monthly Atlantic Herring Landings by Management Area**  
 Source: NMFS. This is preliminary landings data, confidential data has been omitted



**Figure 4. Cumulative Atlantic Herring Landings from May through December in 2015**  
 Source: NMFS. This is preliminary landings data, confidential data has been omitted



**Table 3. Georges Bank Haddock Catch by Herring Midwater Trawl Vessels, May 2015 – August 2016. Source: NMFS, preliminary data**

Month	Monthly Estimated Haddock Catch (mt)	Cumulative Estimated Haddock Catch (mt)	Cumulative Percent of Quota
May	43.09	43.09	18.98%
June	54.51	97.59	42.99%
July	45.7	143.29	63.12%
August	0.25	143.54	63.23%
September	66.32	209.87	92.45%
October	25.68	235.54	103.76%
November	0	235.54	103.76%
December	0	235.54	103.76%
January	0	235.54	103.76%
February	0	235.54	103.76%
March	0	235.54	103.76%
April	0	235.54	103.76%
<b>FY2016</b> May	23.6	23.6	4.50%
June	3	26.6	5.10%
July	0.1	26.7	5.10%
August	0.8	27.5	5.30%

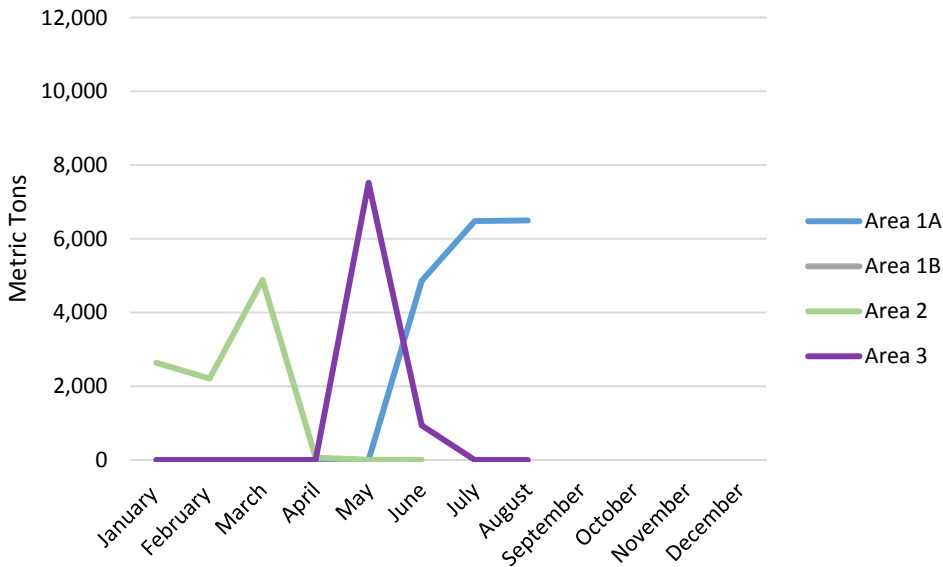
### **2016 FISHING SEASON**

*Concern: Above-average landings at the start of the season, and thereafter, led to emergency restrictions for vessels landing in Maine (on behalf of Maine DMR), which were more restrictive than those of the Commission.*

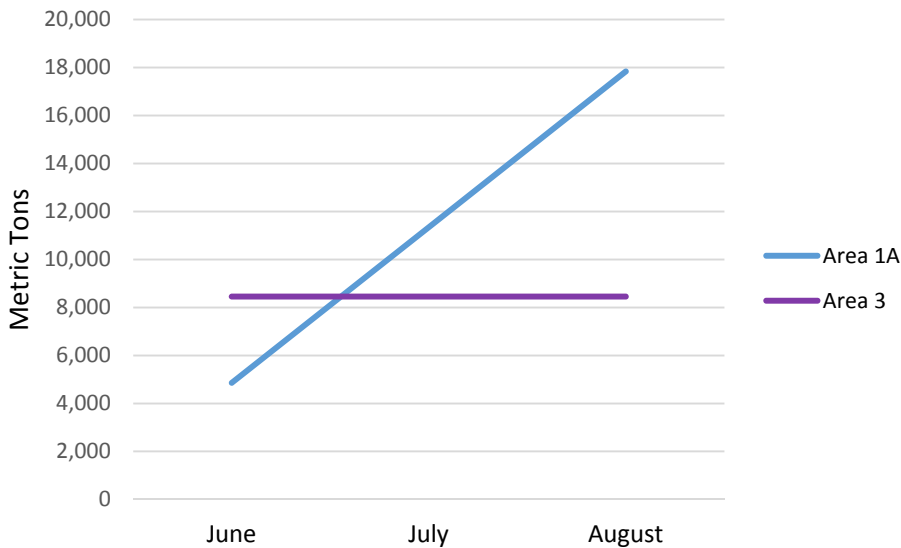
The 2016 Area 1A Atlantic herring fishing season opened in June to almost double the projected landings. For example, three weeks into June the fishery was projected to have harvested 1,300 mt, however 2,837 mt<sup>3</sup> had been harvested. Figure 5 provides a monthly overview of Atlantic herring landings in 2016. During June – August, the primary source of Atlantic herring landings was from Area 1A. Similar to 2015 but earlier in the season, Area 3 landings became stagnant and Area 1A landings increased (Figure 6). Area 3 herring fishermen reported finding some Atlantic herring schools, but in deep waters and intermixed with haddock schools. Utilizing the more than half of the Georges Bank haddock catch cap (Table 3) so early in the 2015 fishing season prompted a small number of midwater trawl vessels to shift effort to Area 1A to operate as purse seiners<sup>4</sup>.

<sup>3</sup> Preliminary landings data

<sup>4</sup> In 2007, federal regulations prohibited midwater trawlers from fishing in Area 1A from June 1-September 30.



**Figure 5. 2016 Monthly Atlantic Herring Landings by Management Area**  
**Source: NMFS. This is preliminary landings data, confidential data has been omitted**



**Figure 6. Cumulative Atlantic Herring Landings from June through August in 2016**  
**Source: NMFS. This is preliminary landings data, confidential data has been omitted**

Adding to the increased effort in Area 1A were the effects from other fisheries, specifically the New Jersey menhaden purse seine fishery closed on June 25, 2016 which reportedly prompted a southern vessel to re-locate to Massachusetts to harvest Atlantic herring.

In an attempt to extend the Trimester 2 quota into September, Maine’s Department of Marine Resources (DMR) implemented a series of emergency rules that were more restrictive than ASMFC regulations (states can implement measures that are more restrictive than that of the

Commission, but not less so). DMR’s measures only applied to vessels landing in Maine. The final measures, effective July 9, 2016, included:

1. Weekly landing limit of 600,000 pounds (15 trucks)
2. 3 consecutive fishing days
3. 2 consecutive landing days
4. Harvester vessels are limited to making one landing per 24-hour period
5. Harvester vessels are limited to making at-sea transfers to only one carrier per week.
6. All carrier vessels landing herring are limited to receiving at-sea transfers from one vessels per week.

A days out call was scheduled on July 20 to discuss the current landing day scenario and Maine’s emergency rules. The states of Maine, New Hampshire and Massachusetts agreed to decrease the landing days from five to two days per week, but did not adopt the rest of the restrictions. Maine DMR kept the emergency restrictions in place throughout Trimester 2. The Area 1A fishery moved to zero landing days on September 18, 2016.

#### V. MANAGEMENT ALTERNATIVES

The following alternative management measures, which seek to acknowledge current fishing practices and provide equitable fishing opportunities for all fishermen and regions, have been suggested by Commissioners for Section consideration and discussion. They are grouped by the complexity of the action(s), specifically whether it would require an amendment, addendum or specification adjustment (Table 4). Individual action(s) can be selected or modified for future inclusion in a draft management document if agreed upon by the Section.

**Table 4. Management document associated with management alternatives**

Potential Action	Addendum	Amendment	Specifications	Requires complementary action by NMFS
Landing days do not have to be consecutive	X			
Small Mesh Bottom Trawl Days Out	X			
Restrict fishing days	X			X - maybe
Weekly landing limit and restrict transfers at sea	X			
Clarify Days Out procedure	X			
Restrict vessels from midseason gear changes	X			X
SMBT set-aside	X			X

Modify in-season allocation			X	
Small Mesh Bottom Trawl sub-ACL		X		X

The following management action could be adjusted under annual specifications at the Annual Meeting. This is the only adjustment that would impact the 2017 fishing season. The other options require multiple Section meetings to review and possibly approve.

1. *Modify the Area 1A in-season allocation.*
  - Traditionally the Section has opted to separate the Area 1A sub-ACL into trimesters (Table 1). Amendment 2 included other trimester and bi-monthly quota allocations to consider (Table 5a and 5b). Alternative allocations would be designated in the annual specifications. A bi-monthly quota allocation would require significant increased Technical Committee effort to track. Changing when the quota can be taken may not address the increase in effort that carrier vessels provide to smaller vessels.

**Table 5a. Bi-monthly quota percent allocations. Percentages were calculated using vessel trip reports from 2000 – 2007**

Bi-Monthly Quotas								
January – December			No Landings Prior to June 1 (with June as a one-month period)			No Landings Prior to June 1 (with December as a one-month period)		
Period	Months	%	Period	Months	%	Period	Months	%
1	Jan/Feb	1.5%	1	June	16.4%	1	June/July	36.8%
2	Mar/Apr	2.3%	2	July/Aug	40.1%	2	Aug/Sep	36.0%
3	May/June	24.0%	3	Sep/Oct	34.0%	3	Oct/Nov	27.1%
4	July/Aug	34.6%	4	Nov/Dec	9.5%	4	Dec	0.2%
5	Sep/Oct	29.4%						
6	Nov/Dec	8.2%						

**Table 5b. Trimester and seasonal quota percent allocations. Percentages were calculated using vessel trip reports from 2000 – 2007**

Trimesters			Seasonal Quotas					
January – December			January - December			No Landings Prior to June 1		
Trimester	Months	%	Season	Months	%	Season	Season	%
1	Jan - May	13.7%	1	Jan - Sep	76.5%	1	Jun - Sep	72.8%

2	Jun - Sept	62.8%	2	Oct - Dec	23.5%	2	Oct - Dec	27.2%
3	Oct - Dec	23.5%						

The following management measures would need to be considered through the addendum process and, in some cases, require a complementary effort by the National Marine Fisheries Service (NMFS). If Draft Addendum I to Amendment 3 is initiated at the Annual Meeting the management measure(s) may be implemented prior to the 2018 Area 1A fishing season (Table 6).

1. *Modify the Days Out program such that landing days are no longer consecutive days.*
  - Consecutive days out of the fishery has been deemed more effective because the fishery has to wait a longer period of time in between landing days. The Days Out program has always incorporated the use of consecutive landing days, typically starting on Sunday/Monday. However, landing days could be dispersed through the week to accommodate various needs within the fishery. For example, in Maine herring is landed on Sunday evening so it is ready for the bait market on Monday. In New Hampshire fishermen prefer to harvest herring on Friday when the whiting (silver hake) market is not active. In this scenario, states want non-consecutive landing days which may include a Sunday/Monday landing day and a Friday landing day, but not a Saturday landing day due to worker related overtime costs.
2. *Modify the Days Out program such that the small-mesh bottom trawl fleet (SMBT) could have a different allocation of landings days and times that are separate from the purse seine and mid-water trawl fleet landing days. This measure was previously considered in Addendum III to Amendment 2 but was not adopted.*
  - Currently SMBT vessels follow the same landing days as the rest of the fishery. However, SMBT vessels land about 1% of the herring taken in Area 1A, therefore, limiting these vessels does very little in terms of spreading out the catch. A small day boat that uses SMBT gear does not have the ability to fish prior to a landing day like other gears, they fish and land on the same day. The option would allow SMBT fleet to harvest herring on days that are closed to landing for purse seine and mid-water trawl fleets. If this option were adopted there could be a scenario where purse seine and midwater trawl vessels were limited to 3 landing days and SMBT vessels were allowed 5 to 7 landing days. Some herring vessels use multiple gear types during the fishing year so there is potential for a vessel to switch to SMBT to have more landing days, this could be restricted if it applied to SMBT vessels with a C or D permit.
3. *Modify the Days Out program to restrict fishing days, in addition to landing days.*
  - A restriction on fishing days was included in the original Days Out program, but removed via Amendment 2 because the Law Enforcement Committee (LEC) said they could not effectively enforce the provision. As stated in a 2009 LEC memo, the vast majority of fishing takes place in federal waters where state officers have no authority to enforce ASMFC regulations. If NMFS adopted the Days Out

provisions then the states would be able to enforce the provisions through a Joint Enforcement Agreement. This regulation would then need to be adopted by all states in order to be effective.

4. *Modify the Days Out program to create a weekly landing limit (pounds & trucks). In addition, harvester vessels are limited to making at-sea transfers to only one carrier per week. All carrier vessels landing herring are limited to receiving at-sea transfers from one vessel per week.*
  - Currently the Days Out program is specific to landing day restrictions. The increase in the number of carrier vessels has rendered days out less effective in controlling effort because vessels can transfer catch to large carrier vessels at-sea, allowing harvesters additional days of fishing beyond the days that are open to landings. The state of Maine implemented a 600,000 pound weekly landing limit in 2016 and restricted at-sea transfers. This measure may be more difficult to implement if a state does not have its own monitoring system or access to VMS reports.
5. *Clarify what it means for states to “agree” on the numbers of days out in the fishery, does this mean consensus or vote? If states cannot agree then what is the default landing day scenario, 7 landing days?*
  - As stated in the Days Out procedural language, if Section members from Maine, New Hampshire, and Massachusetts cannot agree on the specific ‘days out’, then the matter will go before the full Section for review at the next ASMFC meeting week or at a special meeting of the Section called by the Chairman. States have been selecting landing days by voting. Default landing days are currently interpreted as seven landing days if no decision is made.
7. *Restrict a vessel from operating a vessel using a different gear mid-season in Area 1A.*
  - At the start of the fishing season a vessel would have to designate their Area 1A gear type and switching mid-season would not be allowed. ASMFC and NMFS would have to adopt similar regulations for this to be enforceable.
8. *Set-aside a percentage or value of the Area 1A sub-ACL for the SMBT.*
  - A research set-aside (3%) and a fixed-gear set-aside (295 metric tons) are deducted annually from the Area 1A sub-ACL. If approved by ASMFC and NMFS, a SMBT set-aside would be in addition. Weekly reporting would be necessary to effectively monitor a SMBT set-aside. Federal IVR is an existing reporting system that could be used to monitor SMBT landings weekly, but IVR reports do not include gear type. In order to successfully manage a SMBT set-aside, the NMFS would need to adjust IVR reporting requirements to include gear type, including mesh size. If a vessel with a limited access permit switches to SMBT then VMS monitoring reporting is required. During Area 1A Trimester 2, SMBT vessels have landed less than 100 MT since at least 2013. This measure may be more difficult if a state does not have its own monitoring system. In addition, it is different than a fixed gear set aside because SMBT vessels can easily switch to operate as a midwater trawl vessel.

**Table 6. Draft timeline if an addendum is initiated at the Annual Meeting**

<b>October 2016</b>	Atlantic Herring Section initiates Addendum I to Amendment 3
<b>May 2017</b>	Section reviews Draft Addendum I and considers its approval for public comment
<b>May–July 2017</b>	Section solicits public comment and states conduct public hearings
<b>August 2017</b>	Section reviews public comment, selects management options and considers final approval of Addendum I
<b>May 2018</b>	Provisions of Addendum I are implemented by states

*The following management measures would need to be considered the amendment process and would require joint cooperation with NMFS. If Draft Amendment 4 is initiated at the Annual Meeting, the management measures could be implemented prior to the 2019 Area 1A fishing season. A draft Public Information Document would be presented at the May 2017 meeting.*

1. *Allocate a sub-ACL for the small-mesh bottom trawl fleet. This measure was previously considered in Addendum III to Amendment 2 but was not adopted.*
  - Currently there are four management areas for Atlantic herring with respective sub-ACLs. If approved by ASMFC and NMFS this would create a 5th sub-ACL for the SMBT fleet. Weekly reporting would be necessary to effectively monitor a SMBT sub-ACL. Federal IVR is an existing reporting system for open access permits that could be used to monitor SMBT landings weekly, but IVR reports do not include gear type. In order to successfully manage a SMBT sub-ACL, the NMFS would need to adjust IVR reporting requirements to include gear type, including mesh size. If a vessel with a limited access permit switches to SMBT than VMS monitoring reporting is required. During Area 1A Trimester 2, SMBT vessels have landed less than 100 MT since at least 2013.

## **VI. LITERATURE CITED**

- Dayton A, Sun JC & Larabee J. (2014). Understanding Opportunities and Barriers to Profitability in the New England Lobster Industry. Portland, ME: Gulf of Maine Research Institute. 15-16 p.
- NEFMC. (2012). Final Amendment 5 to the Atlantic Herring Fishery Management Plan, Incorporating the Environmental Impact Statement. Vol. I and II. Newburyport, MA: M New England Fishery Management Council in consultation with the ASMFC, and NMFS.

Mr. Doug Grout and members of the herring section,

October 3, 2016

The landing day strategy instituted by the herring section has been an unmitigated failure for New Hampshire few remaining small draggers. On a personal basis I have had only two days in the entire season when I was able to land more than the incidental catch limit. Large boats often fish two or three days using refrigerated seawater systems(RSW) to tank the fish for the landing day. Small boats have no such ability and are constrained to fishing on the landing days. We are further constrained by weather and the fact that the fish have to go to the bottom for us to catch them with raised footrope trawls. This may only occur several days per week.

I understand you have to constrain the larger boats to keep from exceeding the quota, but a one size fits all management strategy that eliminates the small boats from the fishery is discriminatory.

Before the start of the 2017 season the section should either implement different management solutions for different segments of the fishery or New Hampshire should create its own limits for vessels landing in New Hampshire. New Hampshire vessels only have a few days a year they catch more than 5000 pounds. One possible solution is to increase the incidental catch to 5000 pounds and keep the days out strategy in place. This would at least allow us to make a living while having negligible effects on the 1a quota.

Another solution would be to give the category C and D vessels a weekly quota by permit type. Currently C boats are limited to 55000 pounds per day and D permits 6600 pounds. For example you could give the C boats 30,000 per weeks and the D boats 15,000 pounds. This is still substantially less than they could catch if the fishery were open seven days per week, but would again allow them to make a living on the days when the fish go to the bottom. Again this would remove them from the landing days scenario.

I have also been told that NHFG is constrained in its ability to create viable solutions through rule making by state statutes. Whatever needs to be changed should be submitted to the legislature after the elections so there are no impediments to creative solutions in 2017. On a personal basis I will be contacting seacoast legislators soon after the election to request action.

As demonstrated above, there are solutions and status quo is not an option. Allowing one group of vessels to land 600,000 pounds per week, while limiting another group to 2000 pounds per day is not an equitable distribution of the resource.

I look forward to working with you and members of the section on a solution to this issue.

Sincerely,

David T. Goethel  
F/V Ellen Diane  
23 Ridgeview Terrace  
Hampton, NH 03842  
Submitted electronically